DOCUMENT RESUME

ED 176 151 CG 013 752

AUTHOR Denmark, Florence L.
TITLE Why the Equal Rights Amendment?
PUB DATE Apr 79
NOTE 9p.; Paper presented at the Annual Convention of the Rocky Mountain Psychological Association (Las Vegas, Nevada, April 16-19, 1979); Best copy available

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Career Opportunities; Equal Opportunities (Jobs); *Equal Protection; *Females; Justice; *Laws; Military Service; Pregnancy; *Sex Discrimination; *Sex Stereotypes; Social Services
IDENTIFIERS *Equal Rights Amendment

ABSTRACT

The Equal Rights Amendment proposes to ensure constitutional protection against all legislative sex discrimination. "Separate but Equal" standards, be they legal, social or psychological, are inevitably incompatable with equal protection under the law and act as a barrier to each individual's freedom for self determination. Equal rights, equal protection, equal opportunity and equal responsibility for all individuals under the law does not necessarily imply an equal number of men and women in each role in society, nor does it undermine the value of the family or those spheres of activity which have been traditionally considered feminine. Individual choice is substituted for social prescription, and both men and women will benefit from the loosening of artificial sex-role definitions. (Author/PJC)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED176151

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

Why the Equal Rights Amendment?[1]

Florence L. Denmark

Hunter College of CUNY

and

The Graduate School and University Center of CUNY

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Florence L Denmark

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

BEST COPY AVAILABLE

The Equal rights Amendment proposes to ensure the constitutional protection against all legislative sex discrimination. The amendment simply states:

1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

2. The congress shall have the power to enforce by appropriate legislation the provisions of this article.

3. This amendment shall take effect two years after the date of ratification.

The fundamental premise underlying the ERA is that sex should not be a discriminating factor affecting the legal rights and responsibilities of women or men. Proponents of the ERA take only two exceptions to this:

1. Situations which relate to the individual's constitutional right to personal privacy; and

2. Situations which relate to the unique characheristics of one sex, e.g., pregnancy or childbirth. (This does not include child care, which can be provided by members of either sex).

In other words with the passage of the ERA women would not be subjected to body searches conducted by male officers, nor would they be required to share bathing and sleeping facilities with men in institutional settings.

For the purpose of this presentation I shall assume that the opponents of the ERA are not advocating the "unequal" or inferior treatment of one sex or the other, but rather that they are in favor of maintaining so-called "seperate but equal"

CG013752

[1] Presented at the Rocky Mountain Psychological Association, April, 1979

standards on the basis of the individual's sex. I hope to provide convincing evidence that the application of seperate standards, be they legal, social or psychological solely on the basis of gender identity is inevitably incompatable with equal protection under the law, and acts as a barrier to each individual's freedom for self determination. I hope also to dispel the myth that with the passage of the ERA women will be "masculinized," the family will be destroyed and child care will be abandoned. This is a gross misrepresentation of the principles for which the ERA stands. Judy Carter, the President's daughter-in-law, who characterizes herself as a mother and wife, remarked that "housewives are the most in need of equal rights. They are the most vulnerable. If they are suddenly deprived of a man, they still have no full protection of the law, which men enjoy." (Washington Post, Dec. 3, 1977).

In 1954 the Supreme Court abandoned the doctrine of "seperate but Equal" educational facilities in its landmark decision concerning Brown Vs. the Board of Education. It was reasoned that the seperation of children on the basis of race implied, if not constituted inequality, and that this had deleterious effects on the self-esteem of black children.

While segregation on the basis of sex is not found today in our public school system, occupational segregation by sex is extensive. Although there are women participating in all occupational categories, they are concentrated in fewer categories then are men (Bureau of Labor Statistics, 1975). A 1972 investigation into the occupational patterns of women revealed that 70% of working women can be classified into four occupational categories: secretarial, social work, teaching and nursing (Tangri, 1972). Women account for 72% of the teachers, 64% of all health workers, 78% of all clerical workers, but only 25% of the category called managers and administrators. If any question remains as to whether this occupational seperateness does not entail economic inequality between the sexes, women's median earnings are reported to be 3/5ths those of men, even after adjusting for education, work experience, and occupational or industrial group an earning differential remains. In 1955 women earned 64% as much as men did in the same job. In 1970 they earned only 58% as much.

Cynthia Epstein, an eminent socialogist refers to this as the "sex-typing of Occupations." (Epstein, 1970). This sex-typing is learned at an early age. The occupational aspriations of 6 to 8 year old boys and girls mirror the roles

society expects men and women to play. In one study (Looft, 1971) 75% of the girls asked responded that they wanted to be a teacher or a nurse when they grew up. The boys responses indicated that they perceived and aspired to a far wider range of choices. It is not the value of the occupations which females tend to choose which is at question here, but the unanimity which suggests that the selection is made on the basis of gender rather than on the basis of interest or talent. The career choices of high school boys can generally be predicted from interest test measures, whereas the best predictor of a girl's career choice is not her interests but her sex (Strong & Campbell, 1966; Klemmack & Edwards, 1973). These early sex differences in orientation towards work suggest that stereotypic sex role socialization acts in collusion with discriminatory hiring practices to limit the employment choices of women. The rationale which is often provided for the over-representation of women in low paying, low status jobs is that these kinds of employment are more suited for the woman who wishes to be available to care for her children. This argument is flawed insofar as the individual who pursues a professional career such as doctor, lawyer or professor who are more likely to have flexible hours than the secretarial worker or the nurse. Coser and Rokoff, two sociologists have proposed that women are expected to work, but they are not expected to be committed to their work (Coser & Rokoff, 1971). It is culturally mandated that the woman's primary allegiance is to her family. Thus, if she works, it is not expected or considered desirable that she attach importance to her labor. Consequently, the person born with female sex organs is automatically expected to be less committed to her occupational endeavor than the person born with male sex organs. She is therefore frequently not given the opportunity to contradict this stereotype and to develop her capacity to the fullest extent. Once again the self-fulfilling prophecy!

In addition to questioning the desirability of a sex role ideology which indiscriminately classifies and directs an individual's life solely on the basis of reproductive function, we must examine how realistic our stereotypes of the male and female roles are in today's world. The statistics reveal that 9 out of 10 females will work at some time in their lives, and the U.S. Census Data in 1970 indicate that 50% of American women between the ages of 18 and 64 are in the labor force. There appears to be a discrepancy between our stereotype of the woman in the home and the reality of today's woman in the job market. This discrepancy between our sex role expectations and ideology and sex role behavior is dysfunctional, maladaptive, and systematically channels women into less profitable

and less individually satisfying employment. The girl who is socialized to believe that her primary role in life is that of homemaker, will not carefully consider training herself for future employment, in spite of the high probability that she will in fact enter the work force.

Sex-role ideology constitutes a social-psychological barrier to sexual equality. The ERA proposes only to eliminate the legalistic foundation upon which this ideology rests. Protective legislation such as the prohibition on female mine workers, at one time was considered to be a progressive development. Now, in the 1970's such protective legislation is in effect safeguarding men's jobs from fair competition, In 1963 the congress began to alter the legal status of women with respect to sex-based discrimination with the passage of the Equal Pay Act, as well as the inclusion of a ban on sex and race discrimination in Title VII of the Civil Rights Act of 1964. The U.S. Equal Employment Opportunity Commission has issued guidelines on the subject of sex discrimination and job testing; these do not have the power or leverage of law. These steps are a beginning, but seperate standards for men and women still exist in the U.S. Code[2] which are not inconsequential (Sex Bias in the U.S. Code, A report to the U.S. Commission on Civil Rights, 1977). I will briefly give some examples.

Provisions in the military code treat women differently on the basis of cultural expectations rather than on the basis of their unique biological function. Women are excluded from combat-related occupational specialties and can voluntarily seperate themselves from the service upon parenting or obtaining custody of a child while men can not. The consequence of both of these provisions is a uniform restriction on women's career development in the military, their opportunity for promotion, and do not take into consideration each individual's capacity to perform adequately. While on the average males may be stronger and taller than females, there are numerous cases of women as well as men who fall outside average range. While generally in our culture women are responsible for child care, it is surely not a physical impossibility for men to take an equal if not larger share of the responsibility, or for outside help to be hired. Men as well as women should be given the option to care for their offspring. Presently the Code reinforces stereotypic sex-role functioning. A realistic and objective perusal of the

[2] The U.S. Code contains the administrative and procedural rulings of each governmental agency, as well as the agency's interpretations of the statutes (laws) pertaining to them.

variability within each sex requires that individual differences in capability and life style be accomodated for. The question we must ask ourselves is not whether women on the average can perform as well on combat duty as men, nor whether women on the average are more likely than men to perfer to care for their children. This "average" woman is an abstraction, and we will never know the individual woman or man's potential or interests while discriminatory practices remain. The elimination of seperate evaluative standards is clearly not the equivalent of applying no standards all. Eliminating seperate standards means that a man's as well as a woman's placement would be determined on the basis of strictly job-related criteria, including tests of strength and skill when relevant, as well as interest. Neither men nor women would be assigned to tasks for which they have demonstrated themselves to be inadequate. Each person would have the opportunity to pursue to the limit of her/his capacity the goals to which they aspire. This has always been the basic tenet of a meritocracy.

Social Security benefits are another aspect of the legal code which is based on a social reality that has ceased to exist. Former Representative Martha Griffiths noted that: "The income security programs of the nation were designed for a land of male and female stereotypes, a land where all men were breadwinners and all women wives or widows; where men provided necessary income for their families but women did not; in other words where all the men supported all the women...This view of the world never matched reality, but today it is further than ever from the truth." One of the consequences of the present Social Security laws is that benefits for dependents of workers are made available according to the worker's sex (New York Times, Nov. 19, 1978). This is clearly discriminatory, since while women contribute to Social Security on the same basis and in the same amount as men within a given salary range, their dependents are entitled to fewer benefits. The law is also biased in favor of a one-worker household, so that if both the woman and man contribute to the family income, their benefits will be less than if the equivalent income was earned by a sole provider. Finally, a women who has been married for less than ten years and divorces, is not entitled to any of her former husband's Social Security benefits even if she has raised five children and been a full time homemaker for nine years.

A case of a 26 year old Louisiana woman was brought to my attention recently,[3]

[3] In a letter from the NOW Legal Defense and Education Fund.

and I would like to share with you the details. Selina Martin worked as a nurse double shifts to help her husband complete his college education. She used the wages she earned to buy a small house. However, under Louisiana's "head and master" law, Selina's husband had complete control over the home his wife had bought as well as all their community property. Without her signature or concent, Selina's husband mortgaged the home for which she had worked, took out a loan, and upon failure to repay the credit company came to forclose the mortgage and take Selina's home away. Upon challenging the constitutionality of the "head and master" law, the Louisiana Supreme Court refused her plea. Selina Martin appealed to the U.S. Supreme Court, which had refused to hear her case. This is just one example of the inequity which is allowed to flourish under the present law. Marital property laws vary between states. In some states a married homemaker with no outside employment has no legal right to help decide how the family income will be spent. Under some laws all property of a family is presumed to belong to the husband unless the wife can prove that she has paid for it. Is this "seperate but equal?"

Stereotypes, whether they are positive or negative, and whether they are applied to women, blacks, Italians or Jews, do a grave injustice to the variability which always exists within each group. When they take on a legal status, they are self-perpetuating. Two social psychologists, Sandra and Daryl Bem (1970) illustrate well what they refer to as our "non-conscious ideology" concerning sex appropriate behavior. Most Americans today would find it highly offensive if it were to be suggested that black skin uniquely qualified an individual for "janitorial and domestic service." However it is commonly assumed that the possession of female sex organs qualifies a woman for just that. Whether biological differences between the sexes are related to personality or ability differences has not been scientifically validated, however, even if this were found to be the case it would be irrelevant to the establishment of equal rights. Once again an analogy can be drawn between the variables of race and sex. Let us suppose for the sake of argument than black Americans did possess, on the average, "an innate better sense of rhythm" than white Americans. Would we then feel justified to discourage every black youngster from becoming a physician? Would we consider it "natural" to socialize each black child into a career as a jazz musician or discourage white children from becoming jazz musicians? Such a suggestion would ignore the characteristics of a particular child, and we would indignantly discount it as ludicrous. This form of reasoning is accepted without question in the socialization of our female children.

Equal rights, equal protection, equal opportunity and equal responsibility for all individuals under the law does not necessarily imply an equal number of men and women in each role in our society, nor does it undermine the value of the family or those spheres of activity which have been traditionally considered feminine. The work of homemaker and the care and raising of children will be accorded their due respect, and it will be up to the individual family whether these functions are performed by a man or a women. Individual choice will be substituted for social prescription, and both men and women will bebefit from the loosening of artificial sex-role definitions. This is conducive to psychological well-being and consistent with the tenets of our constitution.

References

Ben, S. L. & Bem, D. J. Case study of a non-conscious ideology: Training the woman to know her place. In D. J. Bem, Beliefs, attitudes and Human Affairs Belmont, Cal., 1970.

Coser, R. L., & Rokoff, G., Women in the occupational world: Social disruption and conflict. Social Problems, 1971, 18, 535-554.

Epstein, C. Encountering the male establishment: Sex status limits on women's careers in the professions. American Journal of Sociology, 1970, 75, 965-982.

Klemmack, D. L., & Edwards, J. N., Women's acquisition of stereotyped occupational aspirations. Sociology and Social Research, 1973, 57, 510-525.

Looft, W. R., Vocational aspirations of second grade girls. Psychological Reports, 1971, 28, 241-242.

Sex Bias in the U.S. Code, A report of the U.S. Commission on Civil Rights, April, 1977.

Strong, E. K., Jr., & Campbell, D. P., Strong Vocational Interest Blank Manual. Stanford, California: Stanford University Press, 1966.

Tangri, S. S., Determinants of occupational role inovation among college women. Journal of Social Issues, 1972, 28, 177-199.

U.S. Working Women: A Chartbook (Bulletin 1880). U.S. Dept. of Labor, Bureau of Labor Statistics, 1975.